
REQUEST FOR QUALIFICATIONS

Design Architect Services

For the Project Titled:
New Data Center Facilities

Davidson and Rutherford Counties, Tennessee
SBC NUMBER: 529/031-01-2007

STATE OF TENNESSEE

Department of Finance and Administration



8 August 2007



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1 INTRODUCTION

1.1 Statement of Purpose

The State of Tennessee, Department of Finance and Administration, hereinafter referred to as the Owner, has issued this Request for Qualifications (RFQ) to define the Owner's minimum service requirements; solicit proposals; detail proposal requirements; and, outline the Owner's process for evaluating proposals and selecting the Design Architect (Designer).

This RFQ describes general project requirements and solicits qualifications and experience of a proposed Designer team, as well as a proposed technical approach for a project of multifaceted scope and complexity.

Through this RFQ, the Owner seeks to procure the best services and to give ALL qualified businesses, including those that are owned by minorities, women, persons with a disability, and small business enterprises, an opportunity to do business with the Owner as designers, contractors and sub-contractors.

1.2 Expectations and Objectives

- 1.2.1 To be considered for selection, the Proposer is expected to demonstrate specific experience in both architectural and engineering design for Tier III data centers. The Proposer shall feature this information in their Proposal responses for Qualifications and Experience.
- 1.2.2 The Proposer shall have a working understanding of the Uptime Institute Tier III performance standards for data center facilities, as well as all applicable codes required by the State of Tennessee as listed in the Owner's Designers' Manual. (The Designers' Manual is accessible online, located at <http://www.state.tn.us/finance/rpa/designermanual.html>).
- 1.2.3 The Proposer will be expected to have significant experience providing successful design services with particular emphasis on value analysis and accurate cost estimating, and to assist the Owner in identifying and evaluating the Project's design, details, systems and equipment.
- 1.2.4 The Proposer will be expected to coordinate with utility infrastructure upgrades that will occur either before or during the design and construction phases of the project.
- 1.2.5 The Owner intends to engage a Construction Manager / General Contractor (CM/GC) as CM-at-Risk contractor that will participate in the pre-construction phase of the project as an integral part of the project team.

1.3 Project Description

During 2006 the State of Tennessee Department of Finance and Administration engaged IBM to develop a Statement of Requirements for two new comprehensive Tier III data center facilities. These facilities will be located on separate sites approximately 25 miles apart on State-owned property, one north of Nashville and the other in Smyrna, Tennessee. Each building will be approximately 35,000 square feet.

Tier III buildings, as defined by the Uptime Institute, were the basis for the IBM model. Redundant systems, dual electric and communications feeds to the building, along with reduction in single points of failure in power distribution and cooling systems, are features of Tier III design.

The need for two buildings was identified in a January 2006 Business Continuity and Disaster Recovery report for State Government operations. The existing State Data Center in Nashville is not considered part of the proposed plan due to power limitations and building structural concerns.

The anticipated gross area of each new building will accommodate limited office space, 15,000 SF of raised floor data center, and required support areas. The raised floor area and critical electrical and cooling support systems shall be sized to accommodate future IT facility requirements.

The structure and materials of the new buildings shall be inherently durable, easily maintainable, provide antiterrorist shielding at pertinent locations on the site, provide reasonable storm wind load and debris shielding throughout (tornados etc.), have efficient thermal qualities, and provide an appropriate acoustical barrier relative to the nearby flight zones. Economic and appropriate construction systems for this project type are expected.

1.4 Anti-terrorism protection requirements

The entire complex shall meet pertinent anti-terrorism protection standards (reference DoD Anti-terrorism/Force Protection Minimum Standards For Buildings available online, currently UFC 4-010-01, includes changes through 22 January 2007. UFC is Unified Facilities Criteria).

Design shall include but not be limited to: prohibition of vehicular traffic within twenty-five (25) meters of any occupied facility, sufficient control of access with the use of active barriers to service the facility which includes mechanical spaces, dumpster pads, etc, that may be located within the required distance.

1.5 Current Project Status

Consultants to the Owner have developed general design narratives, a basic catalogue of space requirements, and a basic layout scheme of spaces illustrating functional relationships. This information is provided to the Proposer for reference purposes, and has been posted on the Owner's webpage.

1.6 Design Team

1.6.1 For the purposes of this RFQ and contractual documents, the Designer Team will be referred to as the Proposer of Services, Proposer, or Designer to the Owner.

1.6.2 The Designer includes all J/V partners, consultants and subcontractors to the one firm. The Designer shall provide Architectural and Engineering disciplines for the preparation of design and construction documents for the execution of the project.

1.6.3 The Design teams' composition will be valued more favorably by the Owner with having participation by firms located within the State of Tennessee, and with a preference that a firm be readily accessible to the site.

1.6.4 The Designer shall provide the following disciplines as part of their services for the preparation of the construction documents for the scope of work:

- a) Basic services are considered to be: architectural, structural, civil that includes nominal landscape design, electrical, mechanical, plumbing, security electronics and security hardware.
- b) Additional services are considered to be: network infrastructure design, environmental analysis and engineering, interior design, testing, continuous on-site construction observation as required to assure the contractor is in compliance with the construction documents, commissioning, and any other specialty consultant not listed.

1.6.5 If the Designers are a J/V (not one and the same firm), Engineering and other technical consultants shall be subcontractors of the J/V. If the Designer is also an A/E entity, providing Architectural and Engineering services in one and the same firm (not a J/V), consultants shall be subcontractors of A/E firm.

1.6.6 The RFQ documents are intended to define existing conditions, certain required items, and design parameters to be included in the project. It is the Designer's responsibility to complete all documents for construction in a manner consistent with the intent of the RFQ and associated documents, and within the required time period (contract length).

1.7 Project Location

The Nashville site is located on State property at the RS Gass development north of Nashville on Ben Allen Road. The Smyrna site is located on Sam Ridley Blvd. in Rutherford County.

1.8 Cost Range

The anticipated construction cost range for each building in this project is between \$17,000,000 and \$18,000,000.

1.9 Project Construction Budget

GMP Target.....	\$ 34,000,000
Owner Contingency..	\$ 1,700,000
MACC.....	\$ 35,700,000

The MACC is the "Maximum Allowable Construction Cost" approved by the State Building Commission.

1.10 Fee Structure

The Designer fee is based upon the project MACC and in accordance with Article 1 of the Standard Terms and Conditions for Owner/Designer Agreements.

1.11 Schedule

The Designer services will start with review and evaluation of the space requirements data and space layout scheme. The following schedule is based on issuance of design document packages.

1.11.1 The tentative schedule for the Project is for construction start in Summer of 2008 with completion in Fall 2010.

1.11.2 If fast-track construction is utilized, tentative fast-track packages are:

Site Earthwork, Utilities Infrastructure, Grading Package 1
Building Foundation Package 2
Building Construction and Building Systems Package 3
FF&E Package 4
Paving and Landscaping Package 5

1.12 RFQ Communications

1.12.1 The Owner has assigned the following RFQ identification number for referencing in all communications regarding the RFQ:

SBC No. 529/031-01-2007

1.12.2 Unauthorized contact regarding this RFQ with employees or officials of the State of Tennessee other than the RFQ Coordinator detailed below may result in disqualification from this procurement process.

1.12.3 Interested Parties must direct all communications regarding this RFQ to the following RFQ Coordinator, who is the State of Tennessee's only official point of contact for this RFQ.

Howard Symons, RFQ Coordinator
Department of Finance and Administration
William R. Snodgrass Tennessee Tower, Suite 2200
312 Eighth Avenue North
Nashville, Tennessee 37243
Telephone: 615-741-6146
FAX: 615-741-7599
howard.symons@state.tn.us

1.13 Licensure

Proposers and consultants shall be licensed in the State of Tennessee for the practice of Architecture or Engineering, and be familiar with State licensing law as governs architects and engineers, as currently amended (codified in Tennessee Code Annotated, TCA § 62-2-101, et seq.). A contract will not be awarded to a Proposer whose Proposal is in conflict with State of Tennessee licensing law.

1.14 Insurance

The Owner will require the apparent successful Proposer to provide proof of insurance coverage as required by the Owner's Designers' Manual (Conditions of the Contract) before entering into a contract. Failure to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by the Owner shall be in form and substance acceptable to the Owner.

1.15 Contract Bond

No bonds are required.

1.16 Notice of Intent to Propose

Each potential Proposer shall submit a Notice of Intent to Propose to the RFQ Coordinator by the deadline shown in the RFQ Schedule of Events. The notice should include:

- Proposer's name
- Name and title of a contact person
- Mailing address, telephone number, fax number, and Email address of the contact person

NOTICE: A Notice of Intent to Propose creates no obligation and is not a prerequisite for making a Proposal, however, it is necessary to ensure receipt of RFQ amendments and other communications regarding the RFQ. (refer to RFQ Communications above).

1.17 Proposal Deadline

The proposal submission deadline time and date is listed in the RFQ Schedule of Events. Proposals shall respond to the written RFQ instructions and any RFQ exhibits, attachments, and amendments. Late proposals will not be accepted, and a Proposer's failure to submit a proposal before the deadline shall cause the proposal to be disqualified.

1.18 Pre-Proposal Conference

- 1.18.1. A Pre-Proposal conference for all potential Proposers, scheduled as shown in the RFQ Schedule of Events, will be held at

William R. Snodgrass Tennessee Tower,
Davidson Room, 3rd Floor
312 8th Avenue North,
Nashville, Tennessee 37243.

A maximum of three representatives for a Proposer are permitted to attend. Allow sufficient time to locate vehicle parking at a commercial parking lot in the downtown Nashville area, and to obtain Visitor's Badges at the 7th Avenue entrance Security Station on the east side of the building. All visitors must use this entrance, and each must show proper identification such as a valid Driver's License.

- 1.18.2 The purpose of the conference is to discuss the types of work expected with the prospective Proposers and to allow them to ask questions concerning the RFQ.
- 1.18.3 Verbal responses given at the Pre-Proposal Conference are considered tentative and non-binding on the Owner.

1.19 Notifications

- 1.19.1 In order to ensure accurate and consistent information, the Owner will post on the Owner's webpage all official notifications, amendments to the RFQ, as well as responses to written questions, in accordance with dates listed in the RFQ Schedule of Events. Only posted responses from the Owner will be official.
- 1.19.2 The Owner will alert Proposers who submit a *Letter of Intent to Propose* when items have been posted to the website. Notifications to Proposers will be sent electronically via Email to the Proposer's designated contact person.

Section END

2 RFQ SCHEDULE OF EVENTS

The following Schedule of Events represents the Owner's best estimate of the schedule that will be followed. Unless otherwise specified, the time of day for the following events will be between 8:00 a.m. and 4:30 p.m., Central Time.

RFQ SCHEDULE OF EVENTS		
NOTICE: The Owner reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. The Owner will communicate any adjustment to the Schedule of Events to the potential Proposers from whom the Owner has received a Notice of Intent to Propose.		
EVENT	TIME	DATE (all dates are State business days)
1. Owner Issues RFQ		Wednesday 8-Aug-2007
2. Disability Accommodation Request Deadline		Monday 13-Aug-2007
3. Pre-proposal Conference	1:30 p.m.	Wednesday 15-Aug-2007
4. Notice of Intent to Propose Deadline		Tuesday 21-Aug-2007
5. Written Questions and Comments Deadline		Monday 27-Aug-2007
6. Owner Responds to Written Comments		Friday 31-Aug-2007
7. Proposal Deadline	2:00 p.m.	Wednesday 12-Sep-2007
8. Owner Completes Proposal Evaluations		Thursday 4-Oct-2007
9. State Building Commission Review and Action		Thursday 11-Oct-2007
10. Owner Issues Evaluation Notice and Opens RFQ Files for Public Inspection		Friday 12-Oct-2007
11. End of allowed seven calendar day Protest Period		Friday 19-Oct-2007
12. Contract Signing Deadline		Wednesday 24-Oct-2007
13. Conclusion of Owner Contract Signature Process		Wednesday 5-Dec-2007
14. Anticipated Contract Start Date		Monday 17-Dec-2007

3 PROPOSAL REQUIREMENTS

Each Proposer shall submit a proposal in response to this RFQ with the most favorable terms that the Proposer can offer. There will be no best and final offer of services procedure.

3.1 Proposal Form and Delivery

3.1.1 Each response to this RFQ shall consist of a Proposal.

3.1.2 Each Proposer shall submit one (1) original and six (6) copies of the Proposal to the Owner in a sealed package that is clearly marked:

“Proposal in Response to RFQ- 529/031-01-2007 -- Do Not Open”

3.1.3 The Owner must receive all proposals in response to this RFQ, at the following address, no later than the Proposal Deadline time and date detailed in the RFQ Schedule of Events.

William R. Snodgrass Tennessee Tower, Suite 2200
312 Eighth Avenue North
Nashville, Tennessee 37243

3.1.4 A Proposer shall not deliver a proposal orally or by any means of electronic transmission.

3.2 Proposal

3.2.1 The Proposal and Evaluation Guide details specific requirements for making a Proposal in response to this RFQ. This guide includes mandatory and general requirements as well as technical queries requiring a written response.

3.2.2 Each Proposer shall use the Proposal and Evaluation Guide to organize, reference, and draft the Proposal. Use the Proposal and Evaluation Guide as a table of contents covering the Proposal (adding proposal page numbers as appropriate).

3.2.3 Proposers shall use the form provided as Related Project History Form to submit example projects for qualifications and experience information.

3.2.4 Each proposal shall be economically prepared, with emphasis on completeness and clarity of content. A proposal, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" paper (although foldouts containing charts, spreadsheets, and oversize exhibits are permissible).

3.2.4.1 All proposal pages should be numbered and printed double sided. The complete Proposal package should not exceed fifty (50) pages (25 sheets), excluding dividers.

3.2.5 All information included in a Proposal shall be relevant to a specific requirement detailed in the Proposal and Evaluation Guide. All information shall be incorporated into a response to a specific requirement and clearly referenced. Any information not conforming to these criteria will be deemed extraneous and will in no way contribute to the evaluation process.

3.2.6 The Owner may determine a proposal to be non-responsive and reject it if the Proposer fails to organize and properly reference the Proposal as required by this RFQ and the Proposal and Evaluation Guide.

3.2.7 The Owner may determine a proposal to be non-responsive and reject it if the Proposal document fails to appropriately address/meet all of the requirements detailed in the Proposal and Evaluation Guide

Section END

4 PROPOSAL EVALUATION & CONTRACT AWARD

4.1 Evaluation Categories and Maximum Points

The Owner will consider qualifications and experience, and technical approach in the evaluation of proposals. The maximum points that may be awarded for each of these categories are detailed below.

- 4.1.1 Each category is weighted as follows, and one hundred (100) points is the maximum total number of points which may be awarded to a Proposal:

Proposal	100 (maximum points possible)
- Mandatory Qualifications	<i>(pass/fail)</i>
- Qualifications & Experience	<i>(60 points possible)</i>
- Technical Approach	<i>(40 points possible)</i>

- 4.1.2 The Designer selection will be a two-part process:

1. The three Proposers receiving the highest points as scores will be presented to the State Building Commission (SBC) for their consideration.
2. The SBC will select one of the three Proposers presented.

- 4.1.3 The selected Designer will enter into a Contract with the Owner utilizing the SBC-6 Standard Form of Agreement between Owner and Designer, included in this RFQ.

END of Instructions to Proposers

RFQ GENERAL REQUIREMENTS

NONDISCRIMINATION

1.1 No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the State of Tennessee's contracted programs or activities on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the State of Tennessee or in the employment practices of the State's contractors. Accordingly, all vendors entering into contracts with the State of Tennessee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.2 The Owner has designated the following to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and applicable federal regulations .

Buddy Lea, Acting Title VI Coordinator
Department of Finance and Administration
William R. Snodgrass Tennessee Tower, Suite 1200
312 Eighth Avenue North
Nashville, Tennessee 37243
Telephone: (615) 741-6049

ASSISTANCE TO PROPOSERS WITH A DISABILITY

2.1 A Proposer with a disability may receive accommodation regarding the means of communicating this RFQ and participating in this RFQ process. A Proposer with a disability should contact the RFQ Coordinator to request reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFQ Schedule of Events.

RFQ COMMUNICATIONS

3.1 Any verbal communications shall be considered unofficial and non-binding with regard to this RFQ.

3.2 Each Proposer shall assume the risk of the method of dispatching any communication or proposal to the Owner. The Owner assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or electronic "postmarking" of a communication or proposal to the Owner by a deadline date shall not substitute for actual receipt of a communication or proposal by the Owner.

3.3. The RFQ Coordinator must receive all written comments, including questions and requests for clarification, no later than the Written Comments Deadline detailed in the RFQ Schedule of Events.

3.4 The Owner reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests for clarification. The Owner's official responses and other official communications pursuant to this RFQ shall constitute an amendment of this RFQ.

3.5 The Owner will convey all official responses and communications pursuant to this RFQ to the potential Proposers from whom the Owner has received a Notice of Intent to Propose.

3.6 Only the Owner's official, written responses and communications shall be considered binding with regard to this RFQ.

3.7 The Owner reserves the right to determine, at its sole discretion, the method of conveying official responses and communications pursuant to this RFQ (e.g., written, facsimile, electronic mail, or Internet posting).

3.8 Any data or factual information provided by the Owner, in this RFQ or an official response or communication, shall be deemed for informational purposes only, and if a Proposer relies on such data or factual information, the Proposer shall either: (1) independently verify the information; or, (2) obtain the Owner's written consent to rely thereon.

GENERAL RFQ CONDITIONS AND CONTRACTING INFORMATION

4.1 Waiver of Objections. Each Proposer shall carefully review this RFQ and all Attachments, including but not limited to the *pro forma* contract, for comments, questions, defects, objections, or any other matter requiring clarification or correction (collectively called "comments"). Comments concerning RFQ objections must be made in writing and received by the Owner no later than the Written Comments Deadline detailed in the RFQ Schedule of Events. This will allow issuance of any necessary amendments and help prevent the opening of defective proposals upon which contract award could not be made. Protests based on any objection shall be considered waived and invalid if these comments/objections have not been brought to the attention of the Owner, in writing, by the Written Comments Deadline.

4.2 RFQ Amendment and Cancellation. The Owner reserves the unilateral right to amend this RFQ in writing at any time. If an RFQ amendment is issued, the Owner will convey such amendment to the potential Proposers who submitted a Notice of Intent to Propose. Each proposal must respond to the final written RFQ and any exhibits, Attachments, and amendments. The State of Tennessee reserves the right, at its sole discretion, to cancel and reissue this RFQ or to cancel this RFQ in its entirety in accordance with applicable laws and regulations.

4.3 Proposal Prohibitions and Right of Rejection.

4.3.1 The State of Tennessee reserves the right, at its sole discretion, to reject any and all proposals in accordance with applicable laws and regulations.

4.3.2 Each proposal must comply with all of the terms of this RFQ and all applicable State laws and regulations. The Owner may reject any proposal that does not comply with all of the terms, conditions, and performance requirements of this RFQ. The Owner may consider any proposal that does not meet the requirements of this RFQ to be non-responsive, and the Owner may reject such a proposal.

4.3.3 A proposal of alternate services (i.e., a proposal that offers services different from those requested by this RFQ) shall be considered non-responsive and rejected.

4.3.4 A Proposer shall not restrict the rights of the Owner or otherwise qualify a proposal. The Owner may determine such a proposal to be a non-responsive counteroffer, and the proposal may be rejected.

4.3.5 A Proposer shall not submit the Proposer's own contract terms and conditions in a response to this RFQ. If a proposal contains such terms and conditions, the Owner may determine, at its sole discretion, the proposal to be a non-responsive counteroffer, and the proposal may be rejected.

4.3.6 A Proposer shall not submit more than one proposal. Submitting more than one proposal shall result in the disqualification of the Proposer.

4.3.7 A Proposer shall not submit multiple proposals in different forms. This prohibited action shall be defined as a Proposer submitting one proposal as a prime contractor and permitting a second Proposer to submit another proposal with the first Proposer offered as a subcontractor. This restriction does not prohibit different Proposers from offering the same subcontractor as a part of their proposals, provided that the subcontractor does not also submit a proposal as a prime contractor. Submitting multiple proposals in different forms may result in the disqualification of all Proposers knowingly involved.

4.3.8 The Owner will not contract with or consider a proposal from:

4.3.8.1 an individual who is, or within the past six months has been, an employee or official of the State of Tennessee;

4.3.8.2 a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee or official of the State of Tennessee (this shall not apply either to financial interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);

4.3.8.3 a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee or official of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,

4.3.8.4 any individual, company, or other entity involved in assisting the Owner in the development, formulation, or drafting of this RFQ or its scope of services shall be considered to have been given information that would afford an unfair advantage over other Proposers, and such individual, company, or other entity may not submit a proposal in response to this RFQ.

4.3.8.5 For the purposes of applying the requirements of RFQ subsection 4.3.8, et. seq., an individual shall be deemed an employee or official of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid.

4.4 Waiver of Variances. The Owner reserves the right, at its sole discretion, to waive a proposal's variances from full compliance with this RFQ. If the Owner waives minor variances in a proposal, such waiver shall not modify the RFQ requirements or excuse the Proposer from full compliance with such. Notwithstanding any minor variance, the Owner may hold any Proposer to strict compliance with this RFQ.

4.5 Incorrect Proposal Information. If the Owner determines that a Proposer has provided, for consideration in this RFQ process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect, that proposal shall be determined non-responsive and shall be rejected.

4.6 Proposal of Additional Services If a proposal offers services in addition to those required by and described in this RFQ, the additional services may be added to the contract before contract signing at the sole discretion of the Owner. Notwithstanding the foregoing, a Proposer shall not propose any additional cost amount(s) or rate(s) for additional services.

4.7 Assignment and Subcontracting

4.7.1 The Proposer awarded a contract pursuant to this RFQ shall not subcontract, transfer, or assign any portion of the contract without the Owner's prior, written approval.

4.7.2 A subcontractor may only be substituted for a proposed subcontractor at the discretion of the Owner and with the Owner's prior, written approval.

4.7.3 At its sole discretion, the Owner reserves the right to refuse approval of any subcontract, transfer, or assignment.

4.7.4 Notwithstanding Owner approval of each subcontractor, the Proposer, if awarded a contract pursuant to this RFQ, shall be the prime contractor and shall be responsible for all work performed.

4.8 Joint Ventures If the Owner allows consideration of joint venture Proposals, and If a Proposer intends to submit a Proposal as a joint venture, then the following requirements shall apply:

4.8.1 For the purposes of this RFQ, the Owner recognizes a joint venture as separate organizations or business entities that intend to combine professional or technical expertise and business experience, and to share contractual and project responsibilities in performance of a contract pursuant to this RFQ.

4.8.2 Each joint venture participant shall meet the licensure requirements stated in the RFQ.

4.8.3 Each joint venture participant shall meet the insurance requirements stated in the RFQ.

4.8.4 Each joint venture participant shall individually provide all documentation required for review of financial responsibility and stability. The Owner will not recognize nor accept as a singular qualification, any combination of financial assets and resources from separate organizations or business entities submitting a Proposal in response to this RFQ.

4.8.5 A sub-contractor to a Proposer is not a joint venture participant.

4.9 Right to Refuse Personnel At its sole discretion, the Owner reserves the right to refuse any personnel, of the prime contractor or a subcontractor, for use in the performance of a contract pursuant to this RFQ.

4.10 Service Location and Work Space. Management, performance, completion and delivery of the services pursuant to this RFQ are to be as specified in the Pro Forma Contract. Working space on the Owner's premises may be available for contractor use in accordance with the pro forma contract or at the Owner's discretion.

4.11 Proposal Withdrawal. A submitted proposal can be withdrawn at any time up to the Proposal Deadline time and date detailed in the RFQ Schedule of Events. To do so, a Proposer shall submit a written request, signed by a Proposer's authorized representative to withdraw a proposal. After withdrawing a previously submitted proposal, a Proposer is eligible to submit another proposal at any time up to the Proposal Deadline.

4.12 Proposal Errors and Amendments. Each Proposer is liable for all proposal errors or omissions. A Proposer shall not be allowed to alter or amend proposal documents after the Proposal Deadline time and date detailed in the RFQ Schedule of Events unless such is formally requested, in writing, by the Owner.

4.13 Proposal Preparation Costs. The Owner will not pay any costs associated with the preparation, submittal, or presentation of any proposal.

4.14 Disclosure of Proposal Contents.

4.14.1 Each proposal and all materials submitted to the Owner in response to this RFQ shall become the property of the State of Tennessee.

4.14.2 Selection or rejection of a proposal does not affect this right. All proposal information shall be held in confidence during the evaluation process. Notwithstanding, a list of actual Proposers submitting timely proposals may be available to the public, upon request, directly after proposals are opened by the Owner.

4.14.3 Upon the completion of the evaluation of proposals, indicated by public release of an Evaluation Notice, the proposals and associated materials shall be open for review by the public in accordance with Tennessee Code Annotated, Section 10-7-504(a)(7).

4.14.4 By submitting a proposal, the Proposer acknowledges and accepts that the full proposal contents and associated documents shall become open to public inspection.

4.15 Contractor Registration. All service contractors with State of Tennessee contracts must be registered through the Department of Finance and Administration's Service Provider Registry prior to contract approval. However, registration with the State is not required to make a proposal (any unregistered service provider must simply register as required prior to the final contract approval). Refer to the following Internet URL for more information about the Service Provider Registry and to register "on-line."

www.state.tn.us/finance/rds/ocr/sprs.html

4.16 Severability. If any provision of this RFQ is declared by a court to be illegal or in conflict with any law, said decision shall not affect the validity of the remaining RFQ terms and provisions, and the rights and obligations of the Owner and Proposers shall be construed and enforced as if the RFQ did not contain the particular provision held to be invalid.

PROPOSAL EVALUATION

5.1 Evaluation Process.

5.1.1 The proposal evaluation process is designed to award the contract to the Qualified Proposal having the highest total score.

5.1.2 The RFQ Coordinator will use the RFQ Proposal and Evaluation Guide to manage the Proposal Evaluation and maintain evaluation records.

5.1.3 The RFQ Coordinator will review each Proposal to determine compliance with mandatory requirements (refer to RFQ Proposal and Evaluation Guide). If the RFQ Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document its determination of whether:
(1) the proposal meets requirements for further evaluation; (2) the Owner will request clarifications or corrections; or, (3) the Owner will determine the proposal non-responsive to the RFQ and reject it.

5.1.4 A Proposal Evaluation Team, made up of three or more State employees, will evaluate each Proposal that appears responsive to the RFQ.

5.1.5 Each Proposal Evaluation Team member will evaluate each proposal against the evaluation criteria in this RFQ, and will score each in accordance with the RFQ Proposal and Evaluation Guide.

5.1.6 The Owner reserves the right, at its sole discretion, to request Proposer clarification of a Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion may be limited to specific sections

of the proposal identified by the Owner. The subject Proposer shall submit any resulting clarification in writing as may be required by the Owner.

5.2 Presentations – Interviews. The Owner reserves the right to receive an oral presentation from, or conduct interviews with Proposers. Oral presentations and the number of firms interviewed are at the sole discretion of the Owner. Presentations or interviews will be scheduled by the Owner and included as a component of Proposals.

5.3 Evaluation Notice. The Owner will issue an Evaluation Notice to identify the apparent best-evaluated proposal on the Evaluation Notice date detailed in the RFQ Schedule of Events. The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer. The Owner will also make the RFQ files available for public inspection on the Evaluation Notice date detailed in the RFQ Schedule of Events.

5.4 Closure of Evaluation. The State Building Commission's action to approve a Proposer as contractor officially closes the evaluation process. Refer to the RFQ Schedule of Events.

5.5 Protest Process. The Owner will allow seven (7) calendar days after the State Building Commission's action for consideration of protests from a Proposer. Written protests shall be submitted to the State Architect who will evaluate the merits of the protest. If the State Architect denies a protest, then the contract process proceeds.

5.6 Appeal. A Proposer may appeal its denied protest to the State Building Commission for further review. State Building Commission determination of a protest is final action. If the State Building Commission's review through appeal concurs with the State Architect and denies the protest, then the contract process proceeds. If, after review of the protest through appeal, the State Building Commission decides in favor of the protest then the result may be RFQ cancellation or other resolution.

CONTRACT AWARD & APPROVAL PROCESS

6.1 Contract Award Process. The RFQ Coordinator will forward the results of the proposal evaluation process to the head of the procuring agency that will consider the proposal evaluation process results and all pertinent information available to make a determination about the contract award. The Owner reserves the right to make an award without further discussion of any proposal.

6.2 Contracting Obligations. The Proposer with the apparent best-evaluated proposal shall agree to and sign a contract with the Owner that shall be substantially the same as the *Pro Forma* Contract. The Owner reserves the right, at its sole discretion, to add terms and conditions or to revise *pro forma* contract requirements in the Owner's best interests subsequent to this RFQ process. No such terms and conditions or revision of contract requirements shall materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFQ process.

6.3 Contract Signature Deadline. The Proposer with the apparent best-evaluated proposal shall sign and return the contract drawn by the Owner pursuant to this RFQ no later than the Contract Signature Deadline date detailed in the RFQ Schedule of Events. If the Proposer fails to provide the signed contract by the deadline, the Owner may determine that the Proposer is non-responsive to the terms of this RFQ and reject the proposal.

6.4 Contract Approval. The RFQ and the contractor selection processes do not obligate the Owner and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. Contract award and Owner obligations

pursuant thereto shall commence only after the contract is signed by the Contractor and the head of the procuring State agency and after the contract is approved and signed by all other State officials as required by State laws and regulations.

6.5 Contract Payments. All contract payments shall be made in accordance with the contract's Payment Terms and Conditions provisions (refer to RFQ Pro Forma Contract). No payment shall be made until the contract is approved as required by State laws and regulations. Under no conditions shall the Owner be liable for payment of any type associated with the contract or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before contract approval by State officials as required by applicable statutes and rules of the State of Tennessee or before the contract start date or after the contract end date specified by the contract.

6.6 Contractor Performance. The Contractor shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the Owner. The Owner may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. At reasonable times, the Owner may inspect those areas of the Contractor's place of business that are related to the performance of the contract. If the Owner requires such an inspection, the Contractor shall provide reasonable access and assistance.

6.7 Contract Amendment.

6.7.1 During the course of this contract, the Owner may request the Contractor to perform additional work for which the Contractor would be compensated. That work shall be within the general scope of this RFQ. In such instances, the Owner will provide the Contractor a written description of the additional work, and the Contractor shall submit a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's proposal to this RFQ. If the Owner and the Contractor reach an agreement regarding the work and associated compensation, such agreement shall be effected by means of a contract amendment.

6.7.2 Any such amendment requiring additional work must be mutually agreed upon by the parties and signed by the Contractor and the head of the procuring State agency and must be approved by other State officials as required by State laws and regulations.

6.7.3 The Contractor shall not commence additional work until the Owner has issued a written contract amendment and secured all required approvals

END OF RFQ GENERAL REQUIREMENTS

PROPOSAL TRANSMITTAL AND STATEMENT OF CERTIFICATIONS AND ASSURANCES

The Proposer shall complete and sign this Proposal Transmittal. It must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFQ and any contract awarded pursuant to it. If said individual is not the Proposer's chief executive, this document shall attach evidence showing the individual's authority to bind the proposing entity.

**PROPOSER LEGAL ENTITY
NAME:**

**PROPOSER FEDERAL EMPLOYER IDENTIFICATION
NUMBER:**
(or Social Security Number)

The Proposer does hereby affirm and expressly declare confirmation, certification, and assurance of the following:

- 1) This proposal constitutes a commitment to provide all services as defined in the RFQ *Pro Forma* Contract Scope of Services for the total contract period and confirmation that the Proposer shall comply with all of the provisions in this RFQ and shall accept all terms and conditions set out in the RFQ *Pro Forma* Contract.
- 2) The information detailed in the proposal submitted herewith in response to the subject RFQ is accurate.
- 3) The proposal submitted herewith in response to the subject RFQ shall remain valid for at least 120 days subsequent to the date of the Proposal opening and thereafter in accordance with any contract pursuant to the RFQ.
- 4) The Proposers shall comply with:
 - a) the laws of the State of Tennessee;
 - b) Title VI of the federal Civil Rights Act of 1964;
 - c) Title IX of the federal Education Amendments Act of 1972;
 - d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
 - e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government;
 - f) the condition that the submitted proposal was independently arrived at, without collusion, under penalty of perjury; and,
 - g) the condition that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the Procurement under this RFQ.
- 5) The Proposer shall comply with all of the provisions in the subject RFQ and shall accept all terms and conditions set out in the RFQ *Pro Forma* Contract.
- 6) The Proposer shall provide a contract bond in accordance with the requirements of the RFQ.

**SIGNATURE &
DATE:**

RELATED PROJECT HISTORY FORM

*Include project history form with submitted Proposal & Evaluation Guide, Section B,
for Qualifications and Experience*

Name of Client _____
Procuring Agency (Federal, State, Municipal, Other)

Firm: _____

Address: _____ City: _____ State: ____ Phone: _____

Client Representative knowledgeable about the project work:

Name: _____ Title: _____

Phone: _____ Fax _____ E-mail: _____

Project Title: _____

Project or Contract Number: _____

Project Location (City, State) _____

Start Date: _____ Completion Date: _____

Program/ Agency Name: _____

Amount of Proposer's Contract: \$ _____

Brief description of the project scope and service(s) provided:

Attach additional pages as necessary

Use this form for submitting projects of Proposer team participants

CLIENT REFERENCE FORM

State of Tennessee RFQ

Proposers: Please instruct your Referees to open this Microsoft Word® form directly from the State website and save to their computer, or provide them this form as a Microsoft Word® file electronically.

<http://www.state.tn.us/finance/rpa/rfpad.html>

Reference forms are due not later than the Proposal Deadline Date.

This Microsoft Word® file is provided for convenience. The form is designed to be used on a computer. The response fields expand as text is entered.

Referee: Please record your responses in the fields that are provided. The fields automatically expand as needed. Mail or Email your completed reference form to the RFQ Coordinator. Include a letter of transmittal on company letterhead with your signature.

Address to:

Howard Symons, RFQ Coordinator
Division of Real Property Administration
Suite 2200 William R. Snodgrass Tennessee Tower
312 Eighth Avenue North
Nashville, Tennessee 37243-0299
Email: Howard.Symons@state.tn.us

Proposer:

Referenced Project:

Referee Company Name:

Referee Name:

Position Title:

Telephone Number:

Email Address:

Date Reference Completed:

1. Describe the work/services that the Proposer's company did for you.

2. What was the time period (approximately) in which the services were provided?

3. What is your overall opinion of the Proposer and the Proposer's staff?

4. Discuss your satisfaction or dissatisfaction with the workmanship, technical abilities, professionalism, and interpersonal skills of the project managers and on-site technicians.

02 00 06

5. Describe any performance problems with the Proposer's personnel.

6. Discuss the Proposer's response to short lead-time, i.e., emergency or special requests.

7. Project completion. Please comment on assigned tasks being completed in compliance with the terms of the contract.

8. Project completion. Please comment on projects being completed on time and within budget.

9. Rate your level of satisfaction with both the appropriateness and quality of the work. Use a scale of one (1) to five (5), with one being "least satisfied" and five "most satisfied."

10. What are the main reasons you would procure this Proposer's services again?

Additional Comments:

Proposal & Evaluation Guide Forms

Design Architect Services

Sections A through C

PROPOSAL & EVALUATION GUIDE — SECTION A

PROPOSER NAME:		
SECTION A — MANDATORY REQUIREMENTS		
<p>The Proposer shall address ALL Mandatory Requirements section items and provide, in sequence, the information and documentation as required (referenced with the associated item references). The RFQ Coordinator will review all general mandatory requirements, including but not limited to the following:</p> <ul style="list-style-type: none"> ▪ Proposal received on or before the Proposal Deadline. ▪ Proposer did NOT submit alternate proposals. ▪ Proposer did NOT submit multiple proposals in a different form. ▪ Proposal does NOT contain any restrictions of the rights of the Owner or other qualification of the proposal. <p>The RFQ Coordinator will also review the proposal to determine if the Mandatory Requirement Items (below) are met and mark each with pass or fail. For each requirement that is not met, the Proposal Evaluation Team must review the proposal and attach a written determination.</p> <p>NOTICE: In addition to these requirements, the Owner will also evaluate compliance with ALL RFQ requirements.</p>		
Proposal Page # <small>(completed by Proposer)</small>	Mandatory Requirement Items	Owner Use ONLY Pass/Fail
	A.1 Provide the Proposal Transmittal and Statement of Certifications and Assurances completed and signed, in the space provided, by an individual empowered to bind the Proposer to the provisions of this RFQ and any resulting contract.	
	A.2 Provide a statement on the Proposer's experience at providing the services specified in this RFQ. A Proposer, to be considered, must have a minimum of five (5) years of experience in providing these services. If a Proposer is a joint venture firm, at least one joint venture party must have a minimum of five (5) years of said experience and other joint venture party or parties must have a minimum of three (3) years of said experience. If a joint venture, provide a history of this joint venture relationship.	
	A.3 Insurance and Bonding: Provide a letter from an insurance/surety agency stating the Proposer's capability to provide insurance for this Project in accordance with the Owner's Designers' Manual (Conditions of the Contract).	
	A.4 For the last three (3) years, provide the following ratios for the Proposer, calculated according to the generally accepted accounting principles: 1) Quick Ratio and 2) Debt / Worth. The Owner may request CPA audited or reviewed financial statements prepared in accordance with generally accepted accounting principles from the apparent best-evaluated Proposer prior to the final award of the contract. If the requested documents do not support the financial stability of the Proposer the Owner reserves the right to reject the proposal.	

	A.5	Provide a statement of whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict.	
	A.6	Describe the Proposer's form of business (i.e., individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and detail the name, mailing address, telephone number, and e-mail address of the person the Owner should contact regarding the proposal.	
	A.7	Provide a statement of whether there have been any mergers, acquisitions, or sales of the Proposer company within the last five (5) years, and if so, an explanation providing relevant details.	
	A.8	Provide a statement of whether the Proposer or any of the Proposer's employees, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony, and if so, an explanation providing relevant details.	
	A.9	Provide a statement of whether there is any pending litigation against the Proposer; and if such litigation exists, an attached opinion of counsel as to whether the pending litigation will impair the Proposer's performance in a contract under this RFQ.	
	A.10	Provide a statement of whether, in the last ten (10) years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details.	
	A.11	Describe the Proposer organization's number of employees, type of client base, and location of offices.	
	A.12	Provide annual dollar workload volume inclusive of number of projects on a per year basis for the last five (5) years.	

End of Section A

Design Architect Services

PROPOSAL & EVALUATION GUIDE — SECTION B

PROPOSER NAME:		
SECTION B — QUALIFICATIONS & EXPERIENCE		
<p>The Proposer shall address ALL Qualifications and Experience section items and provide, in sequence, the information and documentation as required (referenced with the associated item references).</p> <p>A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the proposal's "Qualifications and Experience" responses.</p> <p>Information previously provided and shown in the Section A, Mandatory Requirement Items, will be included in the evaluation and scoring of these Qualification & Experience Items.</p>		
Proposal Page # <small>(completed by Proposer)</small>	Qualifications & Experience Items	Owner's Use ONLY
	B.1 Provide a brief, descriptive statement indicating the Proposer's credentials to deliver the services sought under this RFQ.	
	B.2 Provide the following information: <ul style="list-style-type: none"> a. A summary description of three projects of similar scope and complexity that are under construction or have been completed or substantially completed by the Proposer within the last seven (7) years. The information for each project shall include specific details on the extent of services provided by this Proposer. A Related Project History Form is provided for the Proposer's use in compiling and presenting this information. b. Arrange for written references to be sent directly to the RFQ Coordinator by the referee. Provided references shall report on current or recently completed projects of similar type, scope and complexity. A Client Reference Form is provided for your referee's use in compiling and presenting their information. The Owner reserves the right to contact references as well as any other source available. 	
	B.3 Provide the following information: <ul style="list-style-type: none"> a. A list of current projects on which your firm is presently committed, and both the dollar volume and time frame for each, and what services are being provided. b. A list of all current contracts with the State of Tennessee, and all State of Tennessee contracts completed within the previous five (5) year period. 	
	B.4 Provide a statement of the Proposer's familiarity and experience with sustainable design practice in general, including the "LEED Rating System" but also specifically address applications as may pertain to the Project's building type.	
	B.5 Provide the following: A statement on the Proposer's familiarity and experience with "Partnering." Explain the process for this activity throughout both the design and construction phases.	

	<p>B.6 Provide the following personnel experience information:</p> <p>a. Résumés of key personnel who shall be assigned by the Proposer to perform duties or services under the Contract. The résumés shall detail each individual's title, education, current position with the Proposer, and employment history. On the page opposite to the résumé of each individual, please show the Proposer's corporate organizational chart for work with this Contract, illustrating lines of authority and where this person is positioned. Such personnel shall include, but not be limited to: the senior designer, lead team members, engineer(s), construction administrator, and other key personnel who may be required.</p> <p>A principal-in-charge (by whatever name called) must also be named as key personnel, but who may not be exclusively assigned to this Project.</p> <p>b. Provide a reference (an owner representative) from each of the last three projects that the proposed project personnel were assigned. Provide a contact name, address, telephone number, email address, and project name and location for each reference. The Owner reserves the right to contact references given as well as any other source available.</p>	
	<p>B.7 Diversity Information:</p> <p>It is the policy of the State of Tennessee to include diversity in its contractual relations with commercial firms. Proposers that presently demonstrate and embrace diversity within their programs and policies are assisting the Owner achieve its goals in building a marketplace more reflective of the community within this State.</p> <p>B.7.1 Though strongly encouraged, participation in diversity is neither obligatory nor a condition or pre-qualification for submitting a Proposal. However, Proposers shall provide descriptions and information of their present participation in diversity through:</p> <p>1) business strategy, 2) business relationships, and 3) workforce.</p> <p>(Note: Business relationships include but are not limited to partnering, subcontracting, contracts with materials and equipment suppliers, and special technical or professional services the Proposer procures in order to satisfy contractual obligations.)</p> <p>B.7.2 Diversity Documentation shall detail:</p> <p>a. A description of the Proposer's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, persons with a disability, and small business enterprises, both on past and current contracts awarded.</p> <p>b. A listing of Proposer's current contracts with business enterprises owned by women, persons with a disability, minorities, and small business enterprises firms, including:</p> <p>1) Contract description and total value;</p> <p>2) Relevant ownership characteristics (i.e., ethnicity, sex, disability);</p> <p>3) Contact person and telephone number.</p> <p>c. In a contract awarded to the Proposer pursuant to this RFQ, an estimate of the level of participation of business enterprises owned by small business firms, persons with a disability, women, and minorities, including the following information:</p> <p>1) Participation estimate (expressed as a percent of the total contract value that will be dedicated to business with anticipated subcontractors, anticipated supply contractors, or other anticipated technical or professional business relationship having such ownership characteristics),</p> <p>d. The percent of the Proposer's current employees by ethnicity, sex, and disability.</p>	

	<p>(Note: Proposal evaluation will recognize the positive qualifications and experience of Proposers utilizing small businesses, women-owned businesses, minority-owned businesses, and businesses owned by persons with a disability, as well as a diverse workforce, in their Proposal to meet the Owner's service needs.)</p> <p>B.7.3 Governor's Office of Diversity Business Enterprise Notwithstanding the foregoing, interested parties may contact the staff of the Governor's Office of Diversity Business Enterprise for general, public information regarding assistance available from the Governor's Office of Diversity Business Enterprise, information on registration, on current qualified businesses, or potential future procurements.</p> <p style="text-align: center;">Web Site: http://www.tennessee.gov/businessopp/</p> <p>This website also contains Vendor Registration information and forms. Contact the office in Nashville, Tennessee at (615)253-4657; and also Toll Free at 1-866-894-5026</p> <p style="text-align: center;">Richard.VanNorman@state.tn.us or Shelia.J.Simpson@state.tn.us</p>	
<i>(Maximum Section B Score = 60)</i>		
SCORE (for all Section B items above, B.1 through B.7):		

End of Section B

Design Architect Services

PROPOSAL & EVALUATION GUIDE — SECTION C

PROPOSER NAME:		
SECTION C — PROJECT APPROACH		
<p>The Proposer shall address ALL Project Approach section items and provide, in sequence, the information and documentation as required (referenced with the associated item references). A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the proposal's response to each item.</p>		
Proposal Page # <small>(completed by Proposer)</small>	Project Approach Items	Owner's Use ONLY
	C.1 Provide a brief, descriptive statement indicating the Proposer's approach to delivering the services sought under the RFQ for design phase and construction phase services for this Project.	
	C.2 Describe your experience working with a Construction Manager/General Contractors (CM/GC) on CM at Risk projects. Provide specific examples including the project name, location, project size (square footage), project budget, and the name of the CM Firm, including a contact person with contact information.	
	C.3 Provide a statement of how the Proposer intends to address all major design disciplines (architectural, structural, civil, mechanical, plumbing, electrical, and special consultants) throughout all phases of the project.	
	C.4 Provide a comprehensive narrative, captioned "Project Staffing Plan," that illustrates how the Proposer will staff. This Plan shall include proposed project design team, and support staffing. The Plan shall include: <ul style="list-style-type: none"> a. Identity of the Proposer's project design team, and construction administration team. These individuals cannot be substituted without written approval of the Owner. b. Proposer's staffing for this particular project shall be indicative of their ability to provide professional project management, design expertise, and construction administration that is effective, efficient, and thorough. c. Provide the amount of time (in percentage or hours for positions) that each of the key personnel presented in Section B above will be committed to this Project during both the design and construction phases, and who will be responsible for the following services and overall project management. <ul style="list-style-type: none"> 1) Pre-Construction: Design, design phase management, constructability review, interdisciplinary coordination, cost model/estimates, schedule management, and value analysis. 2) Construction: Construction phase administration (CA), quality control/inspections, shop drawing process/review, change order process/review, schedule control, and payment process/approval. 	
	C.5 Provide a statement of how the Proposer intends to approach the Construction Administration phase of the Project, including but not limited to: dealing with issues of on-site representation, sufficient resources for observation and quality control, dealing with deficiencies, on-site representation by Consultants to the Designer, responsiveness of testing agent(s), and reporting process. Describe your process for administration of submittals, RFI's, and design related bulletins and their distribution.	

	<p>C.6 Provide a descriptive summary as to the Proposer's approach to the following items:</p> <ul style="list-style-type: none"> a. Design Challenges: Identify three (3) design challenge items in regard to the example projects listed in Section B above and provide a brief description of the Proposer's approach to these items. b. Cost Model/Estimates: Describe Cost Modeling/Management throughout the Proposer's design process, and how the Proposer intends to track projected construction costs during design. Provide the cost model format used on one of the example projects listed in Section B above and describe the timing of its updates during design process, and summarize how the final construction cost related to this cost model. c. Quality Control: Describe how your firm implements quality control throughout each phase of a project; including but not limited to: how peer review will be performed, monitored and documented within the Proposer's organization, between the prime and sub-consultants, and between the Proposer and special consultants to the Owner. d. Schedule Management: Describe schedule management tools and process utilized by the Proposer to monitor design and production, and to insure that schedule requirements are fulfilled. Provide an example to illustrate schedule management from a project of similar scope and complexity. 	
<i>(Maximum Section C Score = 40)</i>		
SCORE (for all Section C items above, C.1 through C.6):		

End of Section C

RFQ PROPOSAL SCORE SUMMARY MATRIX FORMAT

	Qualification & Experience Maximum 60 Points						Project Approach Maximum 40 Points						Q&E+PA	
Evaluator	1	2	3	4	5	Median	1	2	3	4	5	Median	Total Q&E+PA	Normalized Q&E+PA
Proposer A														
Proposer B														
Proposer C														
Proposer D														
Proposer E														
Proposer F														

The Median of the scores of all evaluators for the Q&E+PA will be totaled and then the scores will be normalized to give the highest Proposer score a value of 100 points. The formula is:

$$\frac{\text{Proposers Median Score Total Q\&E+PA}}{\text{Highest Median Score Total Q\&E+PA}} \times 100 \text{ Points}$$

The highest score will be determined to be the apparent best-evaluated Proposer.

RFP Coordinator

Date



Standard Form of Agreement between Owner and Designer

Part A:

A.1 This AGREEMENT is made this _____ day of _____ in the year _____
by and between the **State of Tennessee**

DEPARTMENT OF FINANCE AND ADMINISTRATION on the behalf of the

<<State Agency>>

hereinafter called the **Owner**, and

<<Designer Firm>>

<<Designer Address>>

<<City>>, <<State>> <<Postal Code>>

hereinafter called the **Designer**.

A.2 WITNESSETH, whereas it is the intention of the Owner to complete the work of the following project:

Project Title: **<<Project Title from SBC-1>>**

Institution: **<<Institution>>**

Location: **<<Location>>**

SBC Number: **<<SBC Number>>**

Project
Description **<<Project Description from SBC-1>>**

hereinafter called the Project, at a Maximum Allowable Construction Cost not to exceed

<<MACC>> AND NO/100TH DOLLARS

\$<<MACC DOLLAR AMOUNT>>

unless adjusted by the Owner by written Supplemental Agreement, and
whereas the Owner desires the services of the Designer hereinafter set forth.

A.3 NOW, THEREFORE, The Owner and The Designer, for the consideration hereinafter set forth, agree as follows:

Part B:

B.1 The words “**Terms and Conditions**” as used in this Agreement shall be a reference to the provisions contained in the **January 2007** Form SBC-6a, Standard Terms and Conditions for Agreement Between Owner and Designer. Form SBC-6a, Standard Terms and Conditions for Agreement Between Owner and Designer, Articles 1-16, pages 1-10, are hereby made a part of this Agreement as fully and to the same effect as if embodied verbatim herein.

B.2 The Designer shall provide professional services for the Project in accordance with the Terms and Conditions.

B.3 The Owner shall compensate the Designer in accordance with the Terms and Conditions as follows:

B.3.1 For the Designer’s Basic Services:

Paragraphs 2-1-<<Paragraph No.>> Through 2-1-<<Paragraph No.>>

☒ as defined in the Terms and Conditions, the fee shall be a lump sum of:

<<LUMP SUM AMOUNT>>AND NO/100TH DOLLARS

\$<<LUMP SUM AMOUNT>>

OR

N/A

as defined in the Terms and Conditions,

the fee shall be a multiple of Direct Expense with a maximum fee not to exceed:

<<DIRECT EXPENSE AMOUNT>>AND NO/100TH DOLLARS

\$<<NOT TO EXCEED AMOUNT>>

B.3.2. Compensation for the Designer, applicable to payment for basic services when such are based on a multiple of direct expense, and applicable to extra fees for Designer's Additional Services, are as follows:

B.3.2.1 Principal's time at a fixed rate, in dollars per hour, not to exceed **one hundred fifty-five and no/100 dollars (\$155.00)**.

B.3.2.2 Employee's time computed at a multiple of two and forty-five one hundredths (**2.45**) times the employee's Direct Personnel Expense as defined in the Terms and Conditions, not to exceed the maximum hourly rate of **one hundred fifty-five and no/100 dollars (\$155.00)**.

B.3.2.3 Professional consultants engaged for the normal structural, mechanical, electrical, civil, or architectural services, at a multiple of one and twenty one hundredths (**1.20**) times the amount billed to the Designer, computed in accordance with clauses B.3.2.1 and B.3.2.2 above.

B.3.3 Designer's Principals, for the purpose of this Agreement are:

Principal(s)

B.3.4 Designer's Consultants, for the purposes of this Agreement, are:

Services	Firm	Principal	Registration Number
Structural:	Structural		TN Lic. #
Mechanical:	Mechanical		TN Lic. #
Electrical:	Electrical		TN Lic. #
Architectural:	Architectural		TN Lic. #
Civil:	Civil		TN Lic. #
Landscape:	Landscape		TN Lic. #
Other:	Security Sytems		TN Lic. #

B.3.5 For the **Designer's Reimbursements**, amount expended as defined in the Terms and Conditions.

B.3.6 For obtaining surveys, reports, tests, and engineering data, as defined in the Terms and Conditions, the Owner shall reimburse the Designer at a multiple of one and twenty one hundredths (**1.20**) times the direct cost.

B.3.7 The conditions of payment shall be as described in the Terms and Conditions.

Part C:

C.1 Professional Liability Insurance coverage, as set forth in the Terms and Conditions, is required as follows:

<<INSURANCE AMOUNT>>AND NO/100TH DOLLARS

<<\$INSURANCE>>

Part D:

D.1 The Designer agrees to begin work upon receipt of a fully executed counterpart of this Agreement and to pursue its work with diligence.

D.2 The Designer agrees to a schedule as follows:

☒ To complete services described in paragraphs 2-1-1 through 2-1-21 of the Terms and Conditions within DDP calendar days from the date of Notice to Proceed:

AND

☒ To complete services described in paragraphs 2-1-22 through 2-1-26 of the Terms and Conditions within an additional CDP calendar days from approval of the work performed in paragraphs 2-1-1 through 2-1-21 of the Terms and Conditions

Reviewed and approved:

By: _____ Date: _____
State Architect or designee

In witness whereof, the Owner and the Designer have executed this Agreement.

Designer:

<<DESIGNER FIRM>>

Person(s) signing for Designer must be named as Principal above

Comptroller: (for Compliance with Policy & Statute)

if over \$50K

By: _____

By: _____

Title: _____

Date: _____

Date: _____

Owner:

State of Tennessee

As required by State Building Commission policy and requirements of
the Contracting Agency

Attorney General: (for Form and Legality)

if over \$100K

Department of Finance & Administration

M. D. Goetz, Jr., Commissioner

By: _____

By: _____

Date: _____

Date: _____



Standard Terms and Conditions for Agreements between Owner and Designer

Article 1 FEES

1-1 The Owner shall compensate the Designer, in accordance with the Terms and Conditions as follows:

- (a) For the Designer's **Basic Services**, as defined in the Terms and Conditions, and comprising those paragraphs specifically cited in the Agreement or Supplement, the fee shall be either:

A lump sum amount computed in accordance with the Standard State Fee Schedule as described in the Terms and Conditions; or,

A Multiple of Direct Expense with a Maximum Fee not to exceed, and based upon the unit prices stipulated in this Agreement.

- (b) Extra fees for the Designer's **Additional Services** as described in these Terms and Conditions, a fee in addition to the Basic Services Fee may be allowed and computed based upon the unit prices stipulated in the Contract.
- (c) For the Designer's **reimbursable expenses** an amount expended at actual cost as defined in the Terms and Conditions.
- (d) Conditions of payment shall be as described in the Terms and Conditions.

1-2 When a project is composed of more than one building type, or involves mixes of renovations, new construction, and/or repetitive designs, an attachment showing the fee computation shall be made part of the Agreement.

1-3 If this Agreement provides for the payment of a Lump Sum Fee, it shall have been computed as follows:

- (a) The Owner agrees to pay the Designer a lump sum calculated as a percent of the Maximum Allowable Construction Cost from the Basic Services fee formula **35/logP-1.15** wherein P is the Maximum Allowable Construction Cost indicated in this Agreement.
- (b) For renovations, repairs, alterations, etc., the fee is 125% of the Basic Services fee.
- (c) For repetitive buildings bid under a single construction contract, the fee for the first building will be calculated using the basic rate; the fee for the second building will be calculated using 75% of the basic rate; the fee for additional buildings three (3) through ten (10) will be calculated using 50% of the basic rate; the fee for each building above ten (10) will be negotiated.
- (d) For projects with more than one building type, the fee shall be calculated using the different building

types as separate projects unless special circumstances warrant otherwise.

- (e) If the project is to be awarded under multiple contracts, the lump sum fee shall be separately calculated for each, unless special circumstances warrant otherwise.
- (f) The Owner and the Designer shall negotiate a reduced fee for duplicated work to reflect an appropriate adjustment for reduced effort and for revisions required to adapt a specific project.

Article 2 DESIGNER'S SERVICES

2-1 Basic Services

2-1-1 The Designer agrees to begin work upon receipt of the fully executed copy of this Agreement and to pursue the work with diligence. The Designer will provide accessible communications at their office during normal working hours, which must include, as a minimum, an office phone with answering device/service and a FAX machine. The Designer agrees to a schedule in accordance with that set forth in Part D of this Agreement. Dates of completion shall be extended by the length of delays caused by fire, acts of God, unavoidable casualty, or unreasonable delays by Owner. The Designer shall inform the Owner in writing of any situation potentially causing a delay within twenty-one (21) days of its occurrence. The durations in Part D of this Agreement may not be altered without a letter of written Agreement from the State Architect or the State Architect's Designee.

2-1-1a The Designer's basic services consist of seven (7) phases described in this Article and include the approved Architectural/Engineering consulting services listed in this Agreement and meeting requirements of Paragraphs 2-1-40 and 2-1-41.

2-1-1b Surveys, Reports, and Tests:

- (1) The Owner shall furnish the Designer with available information indicating boundaries of the building site and all rights, easements, and restrictions pertaining thereto.
- (2) The Designer shall be responsible for obtaining a survey of the building site from qualified consultants acceptable to the Designer, which shall include applicable grades and lines of streets, alleys, pavements, adjoining property, rights of way, restrictions, easements, encroachments, zoning, deed restrictions,

boundaries and contours of the site, locations, dimensions, and data pertaining to existing buildings, utilities, other improvements, locations of trees, and information concerning available service and utility lines, both public and private.

- (3) The Designer shall be responsible for obtaining reports on subsurface conditions including test borings or pits, environmental, mechanical, laboratory, or other tests for determining subsurface soil bearing capacities, and other soil or subsoil conditions required for the design of the project from qualified consultants acceptable to the Designer.
- (4) The Designer shall be responsible for obtaining structural, mechanical, environmental and other laboratory tests, field tests, inspections, and reports from qualified consultants known to and acceptable to the Designer as required by the Contract Documents.
- (5) The obtaining of surveys, tests, reports, engineering data, and any other information obtained by the Designer and described under sub-paragraphs 2-1-1b (2), (3), and (4) above is the responsibility of the Designer. The Owner shall reimburse the Designer at a multiple, as set forth in this Agreement, of the direct cost for obtaining this information from competent laboratory, engineers, and licensed surveyors selected by and responsible to the Designer, provided the selection and cost is approved by the Owner before it is ordered.

2-1-2 The Designer shall secure written approval of the Owner before proceeding with each phase of the project and, upon written request by the Owner, shall furnish to the Owner evidence of payment to its consultants for their work in the preceding phase.

2-1-3 The Owner is not obligated to proceed with any phase beyond the last phase specifically approved in writing.

2-1-4 The Designer shall conform to and be bound by standards, criteria, and memoranda of policy consistent with this Agreement and provided to the Designer by the Owner at the start of the project. Subsequent revisions and updates may result in a change in scope. The Designer shall, in accordance with generally accepted design standards of care, design the work in compliance with all applicable laws and codes. Any conflicts shall be promptly reported in writing to the Owner with proposed strategies for resolution.

2-1-5 Design and Construction meetings shall be attended by a representative of the Design Team having authority and credentials to act on behalf of the Designer. Failure to provide the required representatives of the Design Team for a scheduled substantial or final inspection shall cause the cancellation and rescheduling of the inspection at the Designer's expense.

2-1-6 The specific duties and responsibilities of the Designer shall include those outlined as follows and others as necessary depending on the scope of the project.

2-1-7 Designer-provided documents

- (a) As a part of Basic Services, the Designer shall provide, at no cost to the Owner:
 - Documents as required by regulatory authorities;
 - Partial submittals and intra-phase submittals as required by the project;
 - Four complete sets of documents demonstrating suitable progress in a design Phase, when requesting incremental payments as permitted in Article 7, and
 - Four complete sets of documents for each Phase submittal, demonstrating the deliverable product required for the Phase.Incomplete sets of documents or documents that cannot be approved will not be considered as a set of Documents. Additional sets of documents requested by the Owner will be a reimbursable expense.
- (b) The Designer shall furnish as many complete sets of drawings, Project Manuals and other bidding documents, as are necessary for bidding purposes according to the policy of the Owner. Reimbursement for these bidding documents shall be in accordance with Article 6.
- (c) A copy of documents for bidding that are available on electronic media shall be provided to the Owner at no cost.

Program Phase

2-1-8 The Designer shall meet with the Owner to ascertain the general requirements for the project and shall meet with the project program committee to understand and verify the functional and departmental objectives of the project, to advise, with respect to time and budget, the following: selection of the site; the relationship of the project to other structures and facilities; and scope and functional aspects of the program.

2-1-9 The Designer shall show the progress to date, confirm the remainder of the schedule and obtain written approval of the Program Phase before proceeding with the Schematic Design Phase.

Schematic Design Phase

2-1-10 The Designer shall develop and submit to the Owner an analysis of the site describing significant physical and geologic features and characteristics, i.e., climate-topography-soils and conditions-ecology-utilities-circulation-views-noise and existing structures and shall describe the implication of the above factors on design.

2-1-11 The Designer shall develop and submit to the Owner conceptual diagrams of alternative approaches for translating programmatic requirements into conceptual design solutions. These diagrams shall include, but not be limited to, consideration of land use, functional relationships within the program, consideration of relationships to Master Plans and the Environment, relative volumes of circulation, land use, traffic, parking, transportation, utilities, and systems described in Paragraph 2-1-15 of this Article, and organization of major building functions.

2-1-12 The Designer shall prepare and submit to Owner visual studies illustrating the scale and relationship of the project components required in Paragraph 2-1-11 of this Article. Sketches of design concepts showing elevations and exterior appearances, and any other sketches or visual studies necessary for evaluation of the alternative concepts shall be submitted to the Owner. If necessary to communicate the design intent, massing studies in model and/or diagrammatic form shall be submitted to the Owner.

2-1-13 Upon written approval by the Owner of a design concept, the Designer shall prepare and submit to the Owner schematic drawings of the approved concept.

2-1-14 The schematic drawings required by Paragraph 2-1-13 of this Article shall include, but not be limited to, the following information: the basic design approach drawn at an agreed to scale, siting in relationship to the existing environment, relationship to Master Plans, circulation, organization of building functions, functional-aesthetic aspects of the design concepts under study, graphic description of critical details, and visual and functional relationship and compatibility to the surrounding environment.

2-1-15 The Designer shall prepare and submit to the Owner a description of the building systems. Detail of description on all systems should be consistent with the level of detail of the Schematic Design. The Designer shall describe, and give design criteria for the major elements of the following basic building systems with basic economic and energy use considerations of all systems when required:

Built-in Equipment	Interior Walls
Electrical	Partitions
Elevators	Plumbing
Exterior Walls	Roof Systems
Finishes	Sight Lines
Floor on Grade	Site Construction
Floor Systems	Special Items
Foundations	Stairs
H.V.A.C	Structure

2-1-16 The Designer shall prepare and submit to the Owner an estimate of probable total construction

cost based on proposed square footage and/or volume unit costs.

2-1-17 The Designer shall show the progress to date, confirm the remainder of the schedule and obtain written approval of the Owner of the Schematic Design Phase before proceeding with the Design Development Phase.

Design Development Phase

2-1-18 Based on written approval from the Owner of the Schematic Design Phase, the Designer shall develop and submit to the Owner a fully developed design concept. If needed to develop and communicate the design concept, the Designer shall furnish to the Owner exterior perspective drawings and/or working models and/or renderings at a mutually agreed to scale.

2-1-19 The Designer shall prepare and submit to the Owner floor plans showing spaces by name, number, actual net area of each space, structural module, mechanical, electrical and communication spaces, equipment, chases, and circulation area. The Designer shall also prepare and submit site plans (which show utilities), plumbing, electrical, mechanical, and structural plans and preliminary furnishings and equipment layouts to show accommodation for program requirements and engineering systems within the building and for contractor supplied equipment. Drawings shall show overall building dimensions. The Designer shall also prepare preliminary specifications giving basic descriptions of essential components of all systems. The level of detail on the plans and in preliminary specifications shall be at a level of detail for all components sufficient for the development of a preliminary Quantity Cost Estimate.

2-1-20 The Designer shall prepare and submit to the Owner: elevations, building sections, and design details showing use of materials and fenestration, fully developed so that the Designer can proceed with the Contract Document Phase when the Design Development Phase is approved.

2-1-21 The Designer shall prepare and submit to the Owner a Construction Cost Analysis showing allocation of costs for various building systems. The basis for the Cost Estimate shall be a preliminary Quantity take-off, which shall be required of all building systems, described in Paragraph 2-1-15 of this Agreement. The Construction Cost Estimate shall show escalation projected from date of estimate to projected bid date.

2-1-22 The Designer shall show the progress to date, confirm the remainder of the schedule and obtain written approval of the Owner of the Design Development Phase before proceeding with the next phase. In the case of a new building or major addition, the Designer shall also make a presentation of the early design concept to the State Building Commission.

Construction Document Phase

2-1-23 Upon written approval of the Design Development Phase by the Owner, the Designer shall prepare and submit to the Owner Construction Documents, including working drawings and Project Manual setting forth all items necessary for bidding and proper execution of the work including materials; workmanship, finishes, mechanical and electrical systems; special equipment; site work; utility connections and services; bidding information; proposal, bid, contract, and bond forms; general, special and supplementary general conditions of the contract; and any and all other information required for receiving bids on the project and administration of the Construction Phase. Upon completion of the Construction Documents, the Designer shall provide the Owner with a written confirmation of the construction cost estimate. If the Designer cannot confirm the validity of the agreed upon construction cost estimate at the Design Development Phase, then the Designer shall provide an updated construction cost estimate.

2-1-24 Upon receipt of the review comments in writing from the Owner, the Designer shall complete the Construction Documents to conform with the review comments and furnish final copies to the Owner prior to release of plans for bids.

2-1-25 The date for receipt of bids shall be established by the Owner.

2-1-26 The Designer agrees that no approval of the Construction Documents by any person, body or agency shall relieve the Designer of the responsibility for the adequacy, fitness, suitability, and correctness of architectural and engineering design and for designing the work in accordance with sound and accepted engineering and architectural practices.

Bidding or Negotiation Phase

2-1-27 The Designer, following the Owner's written approval of the Construction Documents Phase, shall assist the Owner in obtaining bids or negotiated proposals, and in awarding and preparing construction contracts.

2-1-28 The Designer, following the award of the contract, shall complete and submit to the Owner, project information data on the SBC-25 Form to the extent information is obtainable.

Construction Phase

2-1-29 The Designer's relationships to the General Contractor shall include those set forth in the AIA A201 General Conditions of the Contract between the Owner and Contractor, utilizing such editions as modified and approved by the Owner and included in the Contract Documents.

2-1-30 The Construction Phase begins with the execution of the construction contract(s). The Construction Phase includes the professional

services required to direct the two components of construction: "office" and "field".

2-1-31 The professional services performed during the Office components include the complete administration of all construction contracts; the review of Contractor's payments applications and certifications of the amount due the contractor; the review, approval or the taking of other appropriate action upon the contractor's submittals, such as shop drawings to determine conformance with the design intent, the making of revisions, corrections or clarifications in the contract documents by supplemental instructions or change orders, together with all correspondence, and clerical work in connection therewith and sufficient on-site project observations during construction to substantiate any of the above and substantial completion inspections and accepting the completed project, together with such certificates, manuals, and guarantees as provided in the contract documents. The services of the Designer's Field Representative shall not be utilized for reviewing submittals unless the Field Representative is a design professional of the firm or has a specific approval of the Owner.

2-1-32 The professional services performed during the Field component comprise on-site project observations during construction by the Designer and the Designer's consultants as well as substantial completion inspections to guard against nonconformity of the work with the Contract Documents and to observe and report on compliance with construction schedules. The Designer and its consultants shall make on-site project observations as needed during the critical phases of construction and shall make requisite substantial completion inspections. The Designer shall monitor the Contractor's development of Record Documents. The Designer shall not be responsible for construction means, methods, techniques, sequence of procedures, or for the safety precautions and programs in connection with the work. The Designer may disapprove or reject work as failing to conform to the Contract Documents.

2-1-33 Project observations shall be done by a principal of the Designer's firm and/or of each consultant firm, or a qualified employee of each firm at a minimum of twice a month. For all visits to the site, a written project observation report shall be submitted to the Owner. The Designer with appropriate consultants shall attend all progress meetings and the Designer shall submit promptly a written report to the Owner containing a summary of the substances of each meeting.

2-1-34 The Designer shall be, in the first instance, the interpreter of the requirements of the Contract Documents and the impartial judge of the performance thereunder by both the Owner and

Contractor. The Designer shall make decisions on all claims of the Owner or Contractor relating to the execution and progress of the work and on all other matters or questions related thereto. The Designer shall make recommendations in matters relating to artistic effect that are consistent with the intent of the Contract Documents with the Owner's decision being final.

2-1-35 The Designer will not issue any oral or written orders for changes to the Contract Documents until approved in writing by the Owner, except as provided in the AIA General Conditions as modified by the Owner, or as modified by this Agreement.

2-1-36 Upon request by the Contractor and submission of a list of incomplete items of work by the Contractor, the Designer and its consultants, with a representative of the Owner present, shall make a Substantial Completion inspection and augment the Contractor's list of items necessary to complete the project in accordance with the Contract Documents. Prior to certifying Substantial Completion, the Designer shall verify that all items required by the Project Manual are substantially complete. When the Work is certified substantially complete, the Designer will prepare and issue a Certificate of Substantial Completion.

Close-Out Phase

2-1-37 Upon Substantial Completion of the Work, the Close-out Phase shall begin. When the Work is complete and a request is made by the Contractor, the Designer and its consultants, with a representative of the Owner present, shall conduct a Final Completion inspection to verify, to the best of the Designer's knowledge, information and belief, to the Owner that the completion of the project is in compliance with the Contract Documents. Prior to issuing a Final Certificate for Payment the Designer shall verify that all items required by the Project Manual are complete. When the Work is certified complete, the Designer shall issue a Final Certificate for Payment.

2-1-38 The Designer shall prepare and submit Record Documents to the Owner. These documents shall be drawings on reproducible mylar transparencies suitable for reproduction, and a corrected (marked-up) Project Manual reflecting changes caused by addenda, modifications, and observed changes as recorded by the Contractor. All matters of additional services and reimbursable expenses shall be completed and billed. The Designer shall prepare and submit to the Owner a completed SBC-25 form with the Record Documents and final request for payment to complete the Close Out Phase.

2-1-39 During the one year period after the date of Substantial Completion of the Work, the Designer shall work with a representative of the Owner in

securing remedy of any of the Work that is found to be not in accordance with the requirements of the Contract Documents, and shall make a one year inspection of the project and report observed non-conforming work to the Contractor for correction and to the Owner. The Designer will monitor the Contractor's work to completion.

Professional Consulting Services

2-1-40 All documents and services required under this Agreement shall be prepared or performed by or under the direct supervision of professionals licensed in the State of Tennessee in each discipline required by the scope of services. These licensed professionals in the disciplines of Architecture, Civil Engineering, Structural Engineering, Mechanical Engineering, and Electrical Engineering, shall be members of the Designer's firm, or of the consulting firms listed in this Agreement, and shall affix their seals in accordance with TCA § 62-2-102, et. seq. Professionals in required disciplines not represented in the Designers firm shall be employed by the Designer subject to the objection of and without additional cost to the Owner.

2-1-41 The Designer shall enter into agreements with its Consultants binding them to the Terms and Conditions of this Agreement.

2-2 Additional Services

The services described below in this paragraph are examples of those not included in Basic Services 2.1 and shall be negotiated as a lump sum or paid in accordance with Article 1. No extra compensation shall be payable to the Designer unless prior to the time such additional services are rendered, the State Architect or the State Architect's designee shall have approved by written agreement the payment to the Designer for those additional services.

2-2-1 Making material revisions in Drawings, specifications, and other documents when such revisions are:

- (a) Inconsistent with written approvals or documented instructions previously given by the Owner, for the previously approved phase or concept and which are made necessary by significant adjustments in the Owner's program, schedule or Project budget; or significant changes in the Project including, but not limited to size, quality, or complexity and which are not caused by Designer error or omission.
- (b) Required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.

2-2-2 Providing services concerning replacement of Work damaged by fire or other cause during construction.

2-2-3 Providing services made necessary by default of the Contractor, or made necessary by

major defects in the Work of the Contractor, which defects require significant investigation or redesign.

- 2-2-4** Providing services in connection with a non-state government public hearing, or legal proceeding except where the Designer is party thereto.
- 2-2-5** Providing analysis of the Owner's needs and programming the requirements of the Project above that required in 2-1-8.
- 2-2-6** Assisting the Owner in preparation of application to the U.S. Government and other granting agencies for construction, interest subsidy, and other forms of grants.
- 2-2-7** Providing planning surveys, site evaluations or comparative studies of prospective sites above that required in paragraph 2-1-10.
- 2-2-8** Providing special surveys or environmental studies required for approvals of governmental authorities, or others having jurisdiction over the project, which are not considered a part of basic services.
- 2-2-9** Providing measured drawings of existing facilities where reasonable documentation does not exist.
- 2-2-10** Providing complete Design Development Phase or Construction Document Phase documents in excess of those required in basic services.
- 2-2-11** Providing special services to verify the accuracy of drawings or other information furnished by the Owner.
- 2-2-12** Providing interior design and other similar services limited to and required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.
- 2-2-13** Providing services of special consultants, other than those identified in Basic Services, when such services are reasonably required by the scope of the Project.
- 2-2-14** Providing detailed models or colored renderings over that required in basic services.
- 2-2-15** If more extensive representation at the site than is required by the Owner in the Construction Phase 2-1-29 through 2-1-36, the Designer shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.
- 2-2-16** If the Contractor significantly exceeds the contract time as modified, or the time allowed after Substantial Completion to complete the remaining work items, which causes the Designer and its consultants to make repeated inspections, such services shall be considered as additional services.
- 2-2-17** If excessive evaluations or on-site project visits are required of the Designer after final completion of the work due to improper building operation by the Owner, non-conforming work, or non-responsiveness by the Contractor to make required corrections, such services shall be considered as additional services.
- 2-2-18** Providing Record Documents on special media.
- 2-2-19** Payment by Owner for Additional Services is not a waiver by Owner of later objections and any

payment by Owner for Additional Services is under reservation of rights to later object and recover any money paid hereunder.

Article 3

THE OWNER'S RESPONSIBILITY

3-1 The Owner shall provide adequate information regarding requirements for the project, including a written program which shall set forth the Owner's objectives, schedule, time and budget constraints and other criteria, including space requirements and relationships, in sufficient detail to allow the Designer to carry out the design.

3-2 At the time of execution of this Agreement the Owner shall furnish the Designer the State of Tennessee's Designer's manual that is consistent with this Agreement containing the contract requirements of the Owner and the provisions and requirements of the State of Tennessee.

3-3 Under this Agreement, the Owner shall designate a representative authorized to act in its behalf, who shall render decisions in a timely manner to avoid unreasonable delay in the orderly and sequential progress of the Designer's services.

3-4 The Owner may make project observations, may consult with the Designer on issues, and may assist the Designer in coordinating the progress of the work. The Owner will not give direct orders to the Contractors or to the Contractor's personnel. The Owner shall have no obligation or responsibility as to safety or enforcement of safety rules.

3-5 The Owner shall furnish information required of it under this Agreement as expeditiously as necessary for the orderly progress of the work.

3-6 Prompt written notice shall be given by the Owner to the Designer if the authorized representative of the Owner actually becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents. However, failure to do so will not limit the responsibility of the Designer to detect and address any fault or defect.

Article 4

MAXIMUM ALLOWABLE CONSTRUCTION COST

4-1 For the purposes of this Agreement and the calculation of fees, The Maximum Allowable Construction Cost, confirmed or adjusted by written agreement at the completion of the Design Development Phase of the project, is defined as the total sum approved by the Owner at the completion of the Design Development Phase for construction purposes including the cost of all work designed and specified by the Designer, including that covered by contingencies,

but not including professional fees, or any charges incidental to the project.

Article 5 DIRECT PERSONNEL EXPENSE

5-1 If applicable to this Agreement, Direct Personnel Expense includes that of employees engaged on the project by the Designer, including architects, engineers, designers, drafting technicians, specification writers, field administrators and clerical staff in consultation, research, design, production of drawings, specifications, and other documents pertaining to the project, observations and inspections of construction of the project. Hourly rates shall be subject to prior written approval by the Owner.

5-2 Direct Personnel Expense includes cost of salaries and of mandatory and customary benefits such as statutory employee benefits, insurance, sick leave, holidays and vacations, pensions, and similar benefits and limited to no more than thirty (30) percent of base salary cost.

Article 6 REIMBURSABLE EXPENSES

6-1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and are limited to expenses expressly allowed in this Article and actually incurred by the Designer and the Designer's consultants while performing such services.

6-1-1 Travel expenses, including mileage, meals and lodging, that are incurred in connection with the project for travel in excess of a fifty (50) mile radius of the Designer's or Designer's Consultant's principal place of business, will be considered as reimbursable expenses for the travel that is over and above the travel expense incurred within the fifty (50) mile radius. Travel expenses in connection with preauthorized out-of-town or out-of-state expenses will be considered as reimbursable expenses. Reimbursement for allowable travel, meals, and/or lodging shall be in the amount of actual costs, subject to maximum amounts and limitations specified in the "State Comprehensive Travel Regulations" as they are amended from time to time.

6-1-2 If the Owner elects to have the Designer pay for advertisements for bids, such costs will be considered as reimbursable expenses.

6-1-3 Reimbursable expenses for items described in subparagraph 2.1.7 shall be at actual cost to the Designer.

Article 7 PAYMENTS TO THE DESIGNER FOR BASIC SERVICES

7-1 As a guide for invoicing, payments of the Basic Rate to the Designer shall not exceed the following percentages for the phases described below:

- | | |
|----------------------------------|-----|
| 1. Program Phase | 3% |
| 2. Schematic Phase | 12% |
| 3. Design Development Phase | 25% |
| 4. Construction Document Phase | 30% |
| 5. Bidding and Negotiation Phase | 3% |
| 6. Construction Phase | 23% |
| 7. Close-Out Phase | 4% |

7-2 Fee for Program Phase shall be invoiced and payable upon completion and approval by the Owner of this phase of the Designer's work unless otherwise agreed to by the State Architect, or the State Architect's designee, in writing.

7-3 Fee for Schematic Design, Design Development and Construction Document Phases shall normally be made in two (2) approximately equal payments in proportion to the progress of the Designer's work unless otherwise agreed to by the State Architect, or the State Architect's designee, in writing. The final payment for the Construction Document Phase fee will be invoiced and payable upon furnishing to, and approval by, the Owner of final Construction Documents and any other information required for receiving bids on the project.

7-4 Fee for the Bidding and Negotiation Phase will be invoiced and payable upon execution of the construction contract and submission of SBC-25 as required in subparagraph 2-1-28 of this Agreement. Alternatively, payment for the Bidding and Negotiation Phase will become due and payable should the Owner choose not to award a contract within 45 days following the receipt of a bona fide bid within the MACC.

7-5 Fee of the Construction Phase shall be made monthly in proportion to the gross progress payments to the Contractor. Final payment for the Construction Phase fee will be invoiced and payable upon Substantial Completion of the project acceptable to the Owner.

7-6 Fee of the Close Out Phase will be invoiced and payable upon completion of the Final Certificate for Payment, submission of Record Documents and a corrected (marked up) Project Manual, completion and billing for all matters of additional services and reimbursable expenses, and submission of a completed SBC-25 form.

7-7 In the event that the lowest bona fide bids received exceed the Maximum Allowable Construction Cost, the Designer agrees to revise the drawings, if requested by the Owner, in order to bring the construction cost within the Maximum Allowable Cost at no additional expense to the Owner. The Owner in this event agrees to cooperate with the Designer and permit reasonable and necessary reductions in the scope of the project.

7-8 No deduction shall be made from the Designer's compensation due to penalties, liquidated damages, or other sums withheld from the contractors through no fault of the Designer.

7-9 The Designer shall complete and sign an "Authorization Agreement for Automatic Deposits" (ACH Credits) Form prior to commencing work or invoicing the Owner. This form shall be provided by the Owner. All payments to the Designer under this Agreement shall be made through the Owner's automated clearing house wire transfer system.

7-10 If the project is suspended in writing by the Owner for more than 90 consecutive days during the Design Development or Construction Documents Phases, the Designer shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Designer's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Designer's services based on documented additional costs incurred, in accordance with the Terms and Conditions of this Agreement.

7-11 The Owner reserves the right to deduct from amounts which are or shall be invoiced and payable to the Designer under this or any contract between the State and the Designer any amounts which are or shall become due and payable to the Owner by the Designer.

7-12 This Agreement is subject to the appropriation by the General Assembly and availability of funds. In the event the General Assembly fails to appropriate funds, reduces an appropriation, or the funds are otherwise unavailable, then this Agreement shall terminate in accordance with Article 9, paragraph 9-2.

7-13 Payment to the Designer shall be made within 45 days after being properly invoiced and payable in accordance with TCA Title 12, Chapter 4, Part 7.

Article 8 DESIGNER'S ACCOUNTING RECORDS

8-1 The Designer shall maintain documentation for all charges against the State under this Agreement. The books, records and documents of the Designer, insofar as they relate to work performed or monies received under this Agreement, shall be maintained for a period of three full years from the date of the final payment, and shall be subject to audit, at any reasonable time and upon reasonable notice, by the State agency or the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be maintained in accordance with generally accepted accounting principles.

Article 9 TERMINATION OF AGREEMENT

9-1 TERMINATION OF AGREEMENT FOR CAUSE

9-1-1a If, through any cause, the Designer shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Designer shall violate any of the covenants, agreements, or stipulations of the Agreement, the Owner shall thereupon have the right to terminate this Agreement by giving thirty (30) days written notice to the Designer of such termination and specifying the effective date of termination. The Owner may include in such notice of termination a request for corrective action or other restoration of performance, normally within 15 days, and stipulating that correction by the Designer, which is satisfactory to the Owner, may lead the Owner to rescind the termination. At the option of the Owner, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Designer shall become Owner's property, and the Designer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

9-1-1b If the Owner fails to make payment to the Designer in accordance with paragraph 7-13 of this Agreement, the Designer may, upon ten (10) days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Designer within ten (10) days of the date of the notice, the suspension shall take effect without further notice. In the event of a proper suspension of services, the Designer shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Failure of the Owner to make payments to the Designer in accordance with this Agreement shall be considered substantial nonperformance and cause for termination. In the event of a good faith dispute between the Owner and Designer regarding whether, and to what extent, an amount is properly due, this subsection (b) shall not be applicable.

9-1-2 Notwithstanding the above, the Designer shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the Agreement by the Designer, and the Owner may withhold any reasonable payments to the Designer for the purpose of setoff until such time as the exact amount of damages due the Owner from the Designer is determined.

9-2 TERMINATION FOR CONVENIENCE OF OWNER

9-2-1 The Owner may terminate this Agreement at any time by a notice in writing from the Owner to the Designer. In that event, all finished or unfinished documents and other materials as described in Paragraph 9-1-1 above shall, at the option of the Owner, become its property. If the Agreement is terminated by the Owner as provided herein, the Designer will be paid for the services in an amount which bears the same ratio to the total compensation as

the services actually performed bear to the total services of the Designer covered by this Agreement.

Article 10 GRATUITIES AND COMPENSATION FROM CONTRACTORS

10-1 The Designer, who is a party to this Agreement, hereby agrees that it or any of its employees or consultants shall not offer or agree to offer gifts or gratuities to any employee of the State of Tennessee. Evidence of an offer of a gift or gratuity may be cause for termination of this Agreement.

10-2 The Designer, who is a party to this Agreement, agrees that it or any of its employees or consultants shall not accept gratuities or receive any compensation from the Contractor, subcontractors, or material suppliers involved in the construction of the project. The Designer shall notify each of their employees and all consultants of Designer's commitments under this provision of this Agreement. This provision expressly precludes any compensation to the Designer, any employee or consultant of the Designer, by the Contractor, subcontractors, or material suppliers involved in the construction of the project for preparation of detail drawings, shop drawings, or checking shop drawings, or any other service for work performed by the Designer under this Agreement without prior written approval of the State Architect or the State Architect's designee.

10-3 The Designer acknowledges its familiarity and agrees to make its employees and subcontractors familiar with the requirements of Chapter 529 of the Public Acts of 1995, known as the "Lobbying Reform Act of 1995" and any amendments thereto.

Article 11 EMPLOYMENT PRACTICES

11-1 Except to the extent permitted by Federal laws and regulations for a bona fide occupational qualification, the Designer agrees as follows:

11-1-1 No person on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal and/or Tennessee State constitutional and/or statutory law, shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement, or in the employment practices of the Designer. The Designer shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notices of non-discrimination.

11-1-2 The Designer will, in all solicitations, for employees or job orders for employees placed

with any employment agency, union, or other firm or agency, state that all qualified applicants will receive consideration for employment without regard to race, disability, creed, color, national origin, sex, or age. The words "equal opportunity employer" in advertisements shall constitute compliance with this section.

11-1-3 The Designer will include the provisions of the foregoing paragraphs 1, 2, and 3 in every subcontract or purchase order for the goods or services which are subject matter of this contract. In the event of noncompliance by the Designer with any of the nondiscrimination provisions of this Agreement, the Owner shall have the right, at its option, to cancel this Agreement in whole or in part. If this Agreement is canceled after part performance, the Owner shall be obligated to pay the fair market value or this Agreement price, whichever is lower, for goods or services which have been received and accepted.

11-2 Prohibition of Illegal Immigrants

11-2-1 The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

11-2-2 The Designer hereby attests, certifies, warrants, and assures that the Designer shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor or consultant who will utilize the services of any illegal immigrant in the performance of this Contract. The Designer shall reaffirm this attestation, in writing, by submitting to the State a completed and signed attestation document, embodying the language as shown in Exhibit A hereto, no less than semi-annually during the period of this Contract. In addition, a copy of such attestations shall be maintained by the Designer and made available to state officials upon request.

11-2-3 Prior to the use of any subcontractor or consultant in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Designer shall obtain and retain a current, written attestation that the subcontractor or consultant shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor or consultant who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors or consultants shall be maintained by the Designer and made available to state officials upon request.

11-2-4 The Designer shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

11-2-5 The Designer understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law provides for the prohibition of a Designer from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a Designer is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.

11-2-6 For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a lawful permanent resident, or a person whose physical presence in the United States is authorized or allowed by the Department of Homeland Security and who, under Federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

Article 12 SUCCESSORS AND ASSIGNS

12-1 With the written consent of the Owner, the Designer may assign a portion of its financial interest to a recognized financial institution for underwriting operations covered by this Agreement. The Owner and the Designer each binds itself, its partners, successors, assigns, and legal representatives to the other party of this Agreement and to the partners, successors, assigns, and such other legal representatives of such other party in respect to all covenants of this Agreement. Neither the Owner nor the Designer shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

Article 13 EXTENT OF AGREEMENT

13-1 This Agreement represents the entire and integrated Agreement between the Owner and Designer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Designer. The Owner is not bound by this Agreement until it is approved by the appropriate State officials as indicated on the signature page of this Agreement. This Agreement may be amended only by obtaining the signature of officials hereto or as may be

allowed by State Building Commission Policy & Procedures.

Article 14 OWNERSHIP OF DOCUMENTS

14-1 Upon completion or termination of the Design Contract, the Design and the Contract Documents as instruments of professional services shall be the property of the State of Tennessee, and may be used again by the Designer only for the benefit of the State and on authority of the State Building Commission. Originals of these documents may remain in the files of the Designer.

Article 15 PROFESSIONAL LIABILITY INSURANCE

15-1 The Designer shall furnish to the Owner a certificate of insurance, in a form acceptable to the Owner, that the Designer has Professional Liability Insurance Coverage as required by this Agreement. The amount of coverage shall be a minimum amount of One Hundred Thousand (\$100,000) Dollars. In lieu of the above requirement, the Designer may, in a form acceptable to the Owner, provide proof of financial responsibility. The certificate of insurance required by this paragraph shall contain a provision standard in the industry requiring notice to Owner of cancellation.

15-2 Additional Professional Liability Insurance Coverage may be required and will be as described in Part C of this Agreement.

Article 16 GENERAL TERMS

16-1 The Designer, being an "independent contractor", agrees to carry adequate public liability and other appropriate forms of insurance.

16-2 The Designer agrees to pay all taxes incurred in the performance of this Agreement.

16-3 The Owner shall have no liability except as specifically provided in this Agreement.

16-4 The Designer shall comply with all applicable Federal and State laws and regulations in the performance of this Agreement.

16-5 This Agreement shall be governed by laws of the State of Tennessee.

End of the Terms and Conditions